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This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the California Department of Social Services (CDSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting CDSS programs
- c) Statutes from appropriate Codes which govern CDSS programs; and
- d) Court decisions
- e) Operational standards by which CDSS staff will evaluate performance within CDSS programs.

Regulations of CDSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other department's regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the changes to a new computer system revised language in this manual letter and subsequent community care licensing manual letters will now be identified by graphic screen.

Questions relative to this Users' Manual should be directed to your usual program policy office.

Article 1. GENERAL REQUIREMENTS AND DEFINITIONS**87000 GENERAL****87000**

- (a) The licensee shall ensure compliance with all applicable law and regulations.
- (b) The provisions of Chapter 1, General Licensing Requirements shall not apply to Chapter 7.5, Family Homes.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1502, 1530, 1530.5 and 1531, Health and Safety Code.

87001 DEFINITIONS**87001**

The following definitions shall apply whenever the terms are used throughout this chapter.

- a. (1) "Adult" means a person who is 18 years of age or older.
- (2) "Applicant" means any adult who has made application for an initial or renewal foster family home license.
- (3) "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- b. (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allotted for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- c. (1) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (2) "Care and Supervision" means any one or more of the following activities provided by a licensee to meet the needs of the children:
 - (A) Assistance in dressing, grooming, bathing and other personal hygiene.

87001 **DEFINITIONS** (Continued)**87001**

- (B) Assistance with taking medication, as specified in Section 87075.
 - (C) Central storing and/or distribution of medications, as specified in Section 87075.
 - (D) Arrangement of and assistance with medical and dental care. This may include transportation.
 - (E) Maintenance of house rules for the protection of children.
 - (F) Supervision of children's schedules and activities.
 - (G) Maintenance and/or supervision of children's cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 87001b.(2).
- (3) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
 - (E) Allowances paid to children.
 - (F) Any other similar resources as determined by the licensing agency.
- (4) "Certified License Pending Home" means a home which has a foster family home license application pending and which has been certified for placement of specific children only, pursuant to Section 87007.1.
- (5) "Child" means a person who is under 18 years of age who is being provided care and supervision in a foster family home, except where specified otherwise in this chapter.

87001 **DEFINITIONS** (Continued)**87001**

- (6) "Child with Special Health Care Needs" means a child who meets all of the following conditions:
- (A) Has a medical condition that requires specialized in-home health care and
 - (B) Is one of the following:
 - 1. A child who has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code.
 - 2. A child who has not been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code but who is in the custody of the county welfare department.
 - 3. A child with a developmental disability who is receiving services and case management from a regional center.
- (7) "Completed Application" means:
- (A) The applicant has submitted and the licensing agency has received all required materials including an approved fire clearance, if applicable, from the State Fire Marshal and a criminal record clearance on the applicant and any other individuals specified in Section 87019.
 - (B) The licensing agency has completed a site visit to the facility.
- (8) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, or another.
- (9) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
- (A) a Grant Deed showing ownership; or
 - (B) the lease agreement or rental agreement; or
 - (C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

87001 DEFINITIONS (Continued)**87001**

- d. (1) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code 1500 et seq.) and/or regulations adopted by the department pursuant to the Act.
- (2) "Department" is defined in Health and Safety Code Section 1502(b).

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(Department means the State Department of Social Services.)

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- (3) "Director" is defined in Health and Safety Code Section 1502(c).

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(Director means the Director of the State Department of Social Services.)

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- (4) "Disability" means a condition which makes a child developmentally disabled, mentally disordered or physically handicapped, and for whom special care and supervision is required as a result of his/her condition.
- e. (1) "Evaluator" means any person who is a duly authorized officer, employee or agent of the department, including any officer, employee or agent of a county or other public agency authorized by the department to license homes.
- (2) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.
- (3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.
- (4) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific child placed in the home. Exceptions are granted for a particular child and cannot be transferred or applied to other children or other facilities or licensees.

87001 DEFINITIONS (Continued)**87001**

- (5) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522. Exemptions are not transferable.

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- (A) Health and Safety Code Section 1522(g) reads in part:

After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for a license, special permit, or certificate of approval pursuant to subdivision (d), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c).

HANDBOOK ENDS HERE

- (6) "Existing Facility" means a home operating under a valid, unexpired license on the date this chapter becomes effective.
- f. (1) "Family Health Care" means health care which does not require the skills of qualified technical or professional personnel and is provided to a child by the foster parent in accordance with Section 87075(g). When these requirements are met, the family health care that may be provided includes, but is not limited to the following:
- (A) Routine administration of medications such as the administration of suppositories, ointments, lotions, pills, enemas or medications given by liquid medication dispenser, puffer, dropper or nebulizer.
 - (B) Changing ostomy or indwelling urinary catheter bags.
 - (C) Urine and blood glucose testing using a monitoring kit approved for home use.
 - (D) Heart and apnea monitoring when it is simply the case of providing stimulation to the infant/child when the cardiac or respiratory rate falls below a specified rate and not a matter of interpreting a monitor pattern with the intervention based on that interpretation.

87001 DEFINITIONS (Continued)**87001**

- (E) Assistance with procedures self-administered by older children free of severe mental or physical disabilities such as insulin injection and oxygen administration.
- (2) "Foster Family Home" means any home in which 24-hour care and supervision are provided in a family setting in the licensee's family residence for not more than six foster children, exclusive of members of the licensee's family.
- g. (1) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Section 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate, of another.
- h. (1) "Health Care Professional" means a physician or an individual who is licensed or certified under Division 2 of the Business and Professions Code to perform the necessary client care procedures prescribed by a physician. Such health care professionals include the following: Registered Nurse, Public Health Nurse, Licensed Vocational Nurse, Psychiatric Technician, Physical Therapist, Occupational Therapist and Respiratory Therapist.
- (2) "Home" means a licensed Foster Family Home.
- i. (1) "Individualized Health Care Plan" means the written plan developed by an individualized health care plan team and approved by the team physician, or other health care professional designated by the physician to serve on the team, for the provision of specialized in-home health care.
- (2) "Individualized Health Care Plan Team" means those individuals who develop an individualized health care plan for a child with special health care needs, which must include the child's primary care physician or other health care professional designated by the physician, any involved medical team, the county social worker or regional center caseworker, and any health care professional designated to monitor the specialized in-home health care provided to the child pursuant to the child's individualized health care plan. The individualized health care plan team may include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, the individualized health care plan team may include the prospective specialized licensee who shall not participate in any team determination required by Sections 87010.1(a)(1)(C), and 87065.1(a)(1)(B).

87001 DEFINITIONS (Continued)**87001**

- (3) "Infant" means a child under two years of age.
- j. (Reserved)
- k. (Reserved)
- l. (1) "License" means authorization to operate a home and to provide care and supervision. The license cannot be transferred to another person or location.
- (2) "Licensee" means the individual having the authority and responsibility for the operation of a home.
- (3) "Licensee's Family" means any relative, as defined in 87001r.(1), or adopted children or persons under guardianship or conservatorship, of the licensee, or the licensee's spouse, who reside in the home.
- (4) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- m. (1) "Medical Conditions Requiring Specialized In-Home Health Care" means provided that care may be safely and adequately administered in the home:
- (A) A dependency upon one or more of the following when, but for the fact that trained foster parents may provide these services under Welfare and Institutions Code Section 17736, the skills of qualified technical or professional personnel would be required: Enteral feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, oxygen support, urinary catheterization, renal dialysis, ministrations imposed by tracheostomy, colostomy, ileostomy, ileal conduit or other medical or surgical procedures or special medication regimens, including injection and intravenous medication; or
- (B) Conditions such as AIDS, premature birth, congenital defects, severe seizure disorders, severe asthma, bronchopulmonary dysplasia, and severe gastroesophageal reflux when, because his/her condition could rapidly deteriorate causing permanent injury or death, the child requires in-home health care other than, or in addition to, family health care.

87001 DEFINITIONS (Continued)**87001**

- n. (1) "Needs and Services Plan" means a time-limited, goal-oriented written plan which identifies the specific needs of an individual child, including the items specified in Section 87068.2, and delineates those services necessary in order to meet the child's identified needs.
- (2) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.
- (A) A person who uses postural supports as specified in Section 87072(a)(7), is nonambulatory.
- (B) A person is not deemed nonambulatory solely because he/she is deaf, blind or prefers to use a mechanical aid.
- o. (Reserved)

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- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

HANDBOOK ENDS HERE

- p. (1) "Physical Restraining Device" means any physical or mechanical device, material, or equipment attached or adjacent to a child's body which the child cannot remove easily and which restricts the child's freedom of movement. Restraining devices include leg restraints, arm restraints, soft ties or vests, wheel chair safety bars, and full length bedrails.
- (2) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

87001 **DEFINITIONS** (Continued)**87001**

- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.
 - (4) "Provision" or "Provide" means whenever any regulation requires that provision be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.
 - (5) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in Section 87030.
- q. (Reserved)
- r. (1) "Relative" means:
- A. A person related to the child by birth or adoption who, regardless of whether the parent's rights to the child have been terminated or relinquished, is one of the following:
 - 1. Parent, sibling, half-sibling, nephew, niece.
 - 2. Grandparent, uncle, aunt, first cousin.
 - 3. Great-grandparent, great uncle, great aunt.
 - 4. Great-great-grandparent; or
 - B. Stepfather, stepmother, stepbrother or stepsister; or
 - C. The spouse of any person named in (A) or (B) above, even after the marriage has been terminated by death or dissolution.
- s. (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of any child in a home.
- (2) "Social Worker" means a person who has a graduate degree from an accredited school of social work.
- (3) "Specialized Foster Family Home" means a licensed foster family home which provides specialized in-home health care to children.

87001 DEFINITIONS (Continued)**87001**

- (4) "Specialized In-Home Health Care" means health care, other than family health care, identified by the child's primary physician as appropriately administered in the home by a health care professional or by a foster parent trained by health care professionals.
- (5) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.
- (6) "Substantial Compliance" means the absence of any serious deficiencies.

t. (Reserved)

- u. (1) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code Section 1503.5.

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- (A) Health and Safety Code Section 1503.5 provides:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

- (1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (4) The facility represents itself as a licensed community care facility.

HANDBOOK ENDS HERE

87001 DEFINITIONS (Continued)**87001**

- (B) A facility which is "providing care and supervision" as defined in Section 87001c.(2) includes, but is not limited to, one in which an unemancipated minor has been placed for temporary or permanent care.
- (C) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:
 - (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - (2) A facility where change of ownership has occurred and the same clients are retained.
 - (3) A licensed facility that moves to a new location.
 - (4) A facility which advertises as providing care and supervision.
- (D) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limit to a facility which houses unemancipated minors, even though the facility is providing board and room only, or board only, or room only.
- v. (1) "Ventilator-Dependent Child" means a child who for part or all of each day cannot sustain ventilation spontaneously at a level sufficient to prevent death or the development of life-threatening complications.
- w. (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation which are based on a facility-wide need or circumstance.
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 17710, 17710(a) and (g), 17731, 17731(c) and 17736(a), Welfare and Institutions Code and Sections 1337, 1501, 1502, 1503.5, 1505, 1507, 1507.5, 1520, 1522, 1524, 1524(e), 1525.1, 1526, 1526.5, 1527, 1530, 1530.5, 1530.6, 1531, 1531.5, 1533, 1534, 1536.1, 1537, 1550, 1551, 1727(c), and 11834.11, Health and Safety Code.

Article 2. LICENSE**87005 LICENSE REQUIRED****87005**

Unless a home is exempt from licensure as specified in Section 87007, no individual shall operate, establish, manage, conduct or maintain a foster family home, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1503.5, 1505, 1508, 1509, 1513 and 1531, Health and Safety Code.

87006 OPERATION WITHOUT A LICENSE**87006**

- (a) An unlicensed home is as defined in Section 87001u.(1), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Health and Safety Code Section 1505 or Section 87007.
- (b) If the home is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit, and/or an evaluation of the home pursuant to Health and Safety Code 1533 and 1538.

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- (1) Health and Safety Code Section 1538(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right to access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (c) If the home is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.

87006 OPERATION WITHOUT A LICENSE (Continued)**87006**

- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87055 and Section 1547 of the Health and Safety Code.

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- (1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

HANDBOOK ENDS HERE

- (e) Sections 87006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

HANDBOOK ENDS HERE

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the clients' health and safety.
- (2) The facility does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of the law.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1533, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

87007 EXEMPTION FROM LICENSURE**87007**

- (a) The provisions of this chapter shall not apply to the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1202 of the Health and Safety Code.
 - (3) Any family day care home providing care for the children of only one family, in addition to the operator's own children.
 - (4) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.
 - (5) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend on prayer or spiritual means for healing in the practice of the religion of such church or denomination.
 - (6) Any school dormitory or similar facility where all of the following conditions exist:
 - (A) The school is certificated/registered by the State Department of Education.
 - (B) The school and the school dormitory are on the same grounds.
 - (C) All children accepted by the school are six years of age or older.
 - (D) The program operates only during normal school terms unless the academic program runs year-round.
 - (E) The school's function is educational only.
 - (F) The school program is not designated as providing rehabilitative or treatment services.

87007 EXEMPTION FROM LICENSURE (Continued)**87007**

- (G) The school's function does not promote intent to provide community care services, and the family does not accept children who are in need of such services, including but not limited to children with developmental disabilities, mental disorders or physical handicaps; juveniles declared dependents of the court under Welfare and Institutions Code Section 300; and juveniles declared wards of the court under Welfare and Institutions Code Sections 601 and 602.
- (H) The facility does not receive any public funds designated for care including but not limited to AFDC-FC and SSI/SSP. The facility shall be permitted to receive public funds intended for educational programs.
- (I) No public or private agency, including but not limited to county welfare departments and probation offices, provides social services to children in the facility.
- (7) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, which provides no element of care and supervision, as defined in Section 87001c.(2).
- (8) Any recovery houses or other similar facility providing a group living arrangement for persons recovering from alcoholism or drug addiction which provides no element of care and supervision, as defined in Section 87001c.(2).
- (9) Any cooperative arrangement between parents for the day care of their children by one or more of the parents where no payment for the day care is involved, including but not limited to the exchange of child day care services between two or more families.
- (10) Any care and supervision of persons by a relative, guardian or conservator.
- (11) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.

87007 EXEMPTION FROM LICENSURE (Continued)**87007**

- (A) Provision of longer hours of care shall not be precluded when provided for brief periods of time for reasons, including but not limited to family emergencies, vacation, and military leave.
- (12) Any facility exclusively used by a licensed or exempt homefinding agency and issued a certificate of approval by that agency.
 - (A) Such families shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The facility's compliance with requirements shall be monitored through and assured by the homefinding agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been approved by a licensed homefinding agency as conforming to the regulations pertaining to the Family Home Category. A facility in the exclusive use of a licensed homefinding agency shall accept only those children placed by that agency which approved the home.
- (13) A home which meets all of the following criteria:
 - (A) approved by a licensed adoption agency, or the Department, for the adoptive placement of a child, and
 - (B) the child is legally free for adoption, and
 - (C) the agency or the Department is providing supervision of the placement pending finalization of the adoption.

HANDBOOK BEGINS HERE

Being exempt from licensure does not preclude a home from being licensed.

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87007 EXEMPTION FROM LICENSURE (Continued)**87007**

- (14) A home which meets all of the following criteria:
- (A) placement for adoption by a birth parent, and
 - (B) a petition for adoption has been filed by the prospective adoptive parents, and is pending, and
 - (C) a final decision on the petition has not been rendered by the court.

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Being exempt from licensure does not preclude a home from being licensed.

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- (15) Any similar facility as determined by the Director.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1505, 1506, 1508, 1530, 1530.5, 1536.1, Health and Safety Code; Sections 226.2, 226.5 and 226.6, Civil Code; and Sections 362, 727 and 16100, Welfare and Institutions Code.

87007.1 CERTIFIED LICENSE PENDING HOMES**87007.1**

- (a) Emergency placements of specific children without special health care needs shall be permitted in a Certified License Pending Home when all of the following requirements have been met:
- (1) Placement in a licensed home is not immediately available, or does not meet the child's service needs.
 - (2) The unlicensed home has been certified by a probation officer or social worker as meeting the minimum standards for foster family homes.

87007.1 CERTIFIED LICENSE PENDING HOMES (Continued)**87007.1**

- (3) The unlicensed home has an application pending for a foster family home license.
- (4) The licensing agency has not disapproved the application for a license nor has the application been withdrawn.
- (5) Placements are made pursuant to Welfare and Institutions Code Sections 362(b), 362.5(c) or 727(b).
- (b) If the license application is denied by the licensing agency after placement of a child, such denial shall constitute withdrawal of the certification and the child shall be immediately removed from the home.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1505, Health and Safety Code; and Sections 362, 362.5, 727 and 17710(i), 17736, and 17736(b), Welfare and Institutions Code.

87009 AVAILABILITY OF LICENSE**87009**

- (a) The license shall be retained in the home and be available for review upon request.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS**87010**

- (a) The licensee shall not operate a home beyond the conditions and limitations specified in the license, including the capacity limitation.
- (b) The licensee shall not accept more than two infants, including infants in the licensee's family, without additional household help.
- (c) The licensee shall not place nonambulatory children in any room approved to accommodate only ambulatory children.
 - (1) Children whose condition becomes nonambulatory shall not remain in rooms restricted to ambulatory children.
 - (2) The licensing agency shall have the authority to require children who are accommodated in ambulatory rooms to demonstrate that they are ambulatory.
- (d) The licensee shall not accept more than one ventilator-dependent child.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1507.5 and 1531, Health and Safety Code.

87010.1 LIMITATIONS ON CAPACITY FOR SPECIALIZED FOSTER FAMILY HOMES**87010.1**

- (a) No more than two children with or without special health care needs shall reside even on a temporary basis in a specialized foster family home with the following exceptions:
 - (1) A specialized foster family home may accept a third child with or without special health care needs provided that the licensed capacity, as determined by the licensing agency under Section 87028 is not exceeded, and all of the following conditions are met:
 - (A) The county social worker, regional center caseworker or authorized representative responsible for the placement of the child determines the following:
 - 1. That in the county or, if the child is a regional center client, the regional center catchment area, in which the facility is physically located,
 - a. No other specialized foster family home, small family home or certified family home is available to meet the needs of the child without exceeding the two child limit; and

87010.1 LIMITATIONS ON CAPACITY FOR SPECIALIZED FOSTER FAMILY HOMES (Continued)**87010.1**

- b. If the child does not have special health care needs, that no other nonspecialized foster family home, small family home or certified family home is available to meet the needs of the child.
 - (B) Each child's county social worker, regional center caseworker or authorized representative determines that the specialized foster family home can meet the psychological and social needs of the child.
 - 1. New determinations are required each time there is an increase or turnover in children and the two-child capacity limit is exceeded.
 - (C) The individualized health care plan team for each child with special health care needs determines that the two-child capacity limit may be exceeded without jeopardizing the health and safety of the child.
 - 1. New determinations are required each time there is an increase or turnover in children and the two-child capacity limit is exceeded.
- (b) A licensee shall not accept a child requiring in-home health care other than family health care, unless the child is a child with special health care needs.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Sections 17732, 17732(a) and 17736(b), Welfare and Institutions Code and Sections 1502(a), 1507 and 1507.5, Health and Safety Code.

87010.2 PROHIBITION OF DUAL LICENSURE FOR SPECIALIZED FOSTER FAMILY HOMES**87010.2**

- (a) A foster family home licensee shall not hold any day care, other residential or health care facility license for the same premises as the foster family home while caring for children with special health care needs.
 - (1) Any foster family home licensee planning to care for a child with special health care needs who holds any license as specified in (a) above shall surrender the license prior to accepting a child with special health care needs.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Section 17732, Welfare and Institutions Code and Section 1531, Health and Safety Code.

87012 FALSE CLAIMS**87012**

- (a) No licensee shall make or disseminate any false or misleading statement regarding the family home or any of the services provided by the home.
- (b) No licensee shall alter, or disseminate any alteration to any foster family home license.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1508 and 1531, Health and Safety Code.

Article 3. APPLICATION PROCEDURES**87017 APPLICANT QUALIFICATIONS****87017**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status, or sexual orientation.
- (b) An applicant shall have the following qualifications:
 - (1) Ability to provide care and supervision appropriate to the type of children to be served including ability to communicate with the children.
 - (2) Knowledge of and ability to comply with the applicable laws and regulations.
 - (3) Ability to maintain, or supervise the maintenance of, financial and other records.
 - (4) Ability to direct the work of others when applicable.
- (c) An applicant for a foster family home license shall:
 - (1) Attend and complete an orientation provided by the licensing agency.
 - (2) Be educated, trained, or experienced in areas related to the qualifications specified in (b) above.
 - (A) Applicable education shall be documented through submission, to the licensing agency, of a copy of a certification, transcript or credentials.
 - (B) Applicable training shall be documented through submission, to the licensing agency of a copy of a certificate of training.
 - (C) Applicable experience shall be documented in writing, by a person other than the applicant, and submitted to the licensing agency.

87017 APPLICANT QUALIFICATIONS (Continued)**87017**

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- (d) The following are examples of course, seminar, conference or training topics which will be accepted by the licensing agency to meet the requirements in (c) above and Section 87032(c). Programs which can be shown to be similar will also be accepted.
- (1) Child development
 - (2) Recognizing and/or dealing with learning disabilities
 - (3) Infant care and stimulation
 - (4) Parenting skills
 - (5) Complexities, demands and special needs of children in placement
 - (6) Building self-esteem, for the licensee or the children
 - (7) First aid and/or CPR
 - (8) Recordkeeping
 - (9) Bonding and/or safeguarding of children's property
 - (10) Licensee rights and grievance process
 - (11) Licensing and placement regulations
 - (12) Rights and responsibilities of foster family home providers

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety.

87018 APPLICATION FOR LICENSE**87018**

- (a) Any adult desiring to obtain a license shall file, with the licensing agency, a verified application on forms furnished by the licensing agency.
- (b) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (c) The application and supporting documents shall contain the following:
 - (1) Name and home address of the applicant.
 - (2) Name and address of owner of premises if applicant is leasing or renting.

87018 APPLICATION FOR LICENSE(Continued)**87018**

- (3) Maximum number of children to be served.
- (4) Age range, sex and the categories of children to be served, including but not limited to children with disabilities, if any.
- (5) Information required by Health and Safety Code Section 1520(d).

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- (A) Information regarding the applicant's prior or present service as a licensee, an administrator, general partner, corporate officer or director, or beneficial owner of 10 percent or more, of any community care facility or in any facility licensed pursuant to Chapter 1, commencing with Section 1200, or Chapter 2, commencing with Section 1250, of the Health and Safety Code.

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- (6) Information required by Health and Safety Code Section 1520(e).

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- (A) Information regarding any revocation or temporary suspension action taken or in the process of being taken against a license held or previously held by the applicant or while the applicant served in any of the capacities specified in (5) above.

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- (7) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

87018 APPLICATION FOR LICENSE (Continued)**87018**

- (8) A plan of operation as specified in Section 87022.
- (9) Fingerprint cards as specified in Section 87019.
- (10) Information required by Health and Safety Code Section 1522.1.

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- (A) Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

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- (11) The bonding affidavit specified in Section 87025.
 - (12) A health screening report on the applicant, meeting the standards required in Section 87065(d).
 - (13) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.
- (d) The application shall be signed by the applicant.
 - (e) The application shall be filed with the licensing agency which services the geographical area in which the home is located.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520, 1522.1, and 1531, Health and Safety Code.

87019 CRIMINAL RECORD CLEARANCE 87019

- (a) The licensing agency shall conduct a criminal record review of all persons specified in the Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a foster family home license, or employment, residence, or presence in the home, based upon the results of such review.

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- (1) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.
- (D) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct on site supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

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- (2) Section 1522(d) of the Health and Safety Code states:

Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the California Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other adult person residing in the home has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5, subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the California Department of Social Services for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

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- (b) All persons subject to criminal record review shall submit a completed fingerprint card to the Department of Justice as specified in Health and Safety Code Section 1522(c).

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- (1) Section 1522(d) of the Health and Safety Code provides in part:

Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal cohabitant abuse or for any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

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87019 CRIMINAL RECORD CLEARANCE (Continued)**87019**

- (c) In determining whether individuals specified in Health and Safety Code Section 1522(b) may be exempted from submitting a fingerprint card, the licensing agency shall consider the following:
 - (1) Anticipated type and degree of contact with the children.
 - (2) Whether the facility constitutes the legal residence or the place an adult, other than the licensee, lives the majority of the time.
- (d) The reasons for any exemption granted shall be in writing and kept by the licensing agency.
- (e) Pending receipt of a criminal record transcript and prior to employment or at initial presence in the facility, all employees and volunteers determined by the licensing agency to require criminal record clearance shall sign a statement under penalty of perjury which contains either of the following:
 - (1) A declaration that he/she has not been convicted or arrested for a crime, other than a minor traffic violation as specified in Section 87019(f).
 - (2) Information regarding any prior convictions or arrests of a crime, with the exception of any minor traffic violations as specified in Section 87019(f).
 - (A) If a person has been convicted of a crime other than a minor traffic violation as specified in Section 87019(f), he/she shall also acknowledge that his/her continued employment is subject to approval of the licensing agency.
- (f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, the licensing agency shall take the following actions:
 - (1) For initial applicants, denial of the application.
 - (2) For current licensees, denial of the renewal application or institution of other legal remedies, including but not limited to revocation of the license.
 - (3) For other persons, denial of application or revocation of license if the person continues to provide service and/or reside in the home.

87019 CRIMINAL RECORD CLEARANCE (Continued)

87019

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- (4) Section 243.4 of the Penal Code provides in part:
- (A) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.
 - (B) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.
- (5) Section 273a of the Penal Code provides:
- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.
 - (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

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87019 CRIMINAL RECORD CLEARANCE (Continued)**87019**

HANDBOOK CONTINUES

- (6) Section 273(d) of the Penal Code provides:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

- (7) Section 368 of the Penal Code provides:

(A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.

(B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

HANDBOOK CONTINUES

87019 CRIMINAL RECORD CLEARANCE (Continued)**87019**

HANDBOOK CONTINUES

- (8) Section 1522(d) of the Health and Safety Code provides in part:

If the applicant or other persons specified in this subdivision have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied. For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

- (9) Section 1522(e) of the Health and Safety Code provides in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

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- (g) After a review of the criminal record transcript, the licensing agency or the department shall have the authority to grant an exception from (f) above if such person requests an exemption in writing and presents evidence satisfactory to the department or licensing agency that he/she has been rehabilitated and presently is of such good character as to justify the issuance of the license or authorization to be in the home.

87019 CRIMINAL RECORD CLEARANCE (Continued)**87019**

- (1) The licensing agency shall have the authority to consider factors including but not limited to the following as evidence of good character and rehabilitation:
- (A) The nature of the crime.
 - (B) Period of time since the crime was committed and number of offenses.
 - (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (D) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (E) Granting by the Governor of a full and unconditional pardon.
 - (F) Character references.
 - (G) A certificate of rehabilitation from a superior court.

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- (2) Section 1522(g) of the Health and Safety Code provides in part:
- (A) Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or subdivision (a) of Section 273a, or prior to January 1, 1994, paragraph (1) of Section 273a, Sections 273d, 288, 289 or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certification of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

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87019 CRIMINAL RECORD CLEARANCE (Continued)**87019**

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(3) Section 667.5(c) of the Penal Code provides in part:

(A) For the purpose of this section, "violent felony" shall mean any of the following:

1. Murder or voluntary manslaughter.
2. Mayhem.
3. Rape as defined in subdivision (2) of Section 261.
4. Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
5. Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
6. Lewd acts on a child under 14 as defined in Section 288.
7. Any felony punishable by death or imprisonment in the state prison for life.
8. Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55.
9. Any robbery perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

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87019 CRIMINAL RECORD CLEARANCE (Continued)**87019**

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10. Arson, in violation of subdivision (a) of Section 451.
11. The offense defined in subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
12. Attempted murder.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1522 and 1531, Health and Safety Code.

87020 FIRE CLEARANCE**87020**

- (a) Prior to accepting a disabled child, or deciding to continue to provide services to a child determined after placement to have a disability, the licensee shall notify the licensing agency so that a fire clearance, approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained.
 - (1) The request for fire clearance shall be made through and maintained by the licensing agency.

87020 FIRE CLEARANCE (Continued)**87020**

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- (2) Health and Safety Code Section 13143 provides generally:

A fire clearance shall not be required if the foster family home is providing care for:

- (A) six or fewer ambulatory children, and/or
- (B) children two years of age or younger.

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87021 WATER SUPPLY CLEARANCE**87021**

- (a) Any home where water for human consumption is from a private source shall meet the following requirements:
- (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health or a licensed commercial laboratory.
- (2) Subsequent to initial licensure, the licensee shall be required to provide additional analyses only when the licensing agency documents the need for an analysis to assure the health and safety of the children.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

87022 PLAN OF OPERATION**87022**

- (a) At the time of application each applicant shall submit to the licensing agency a written, definitive plan of operation.
- (b) The plan and related materials shall contain the following:
 - (1) Statement of purposes, and program methods and goals.
 - (2) Statement of admission policies and procedures regarding acceptance of children.
 - (3) A copy of the admission agreement.
 - (4) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the use intended, room dimensions, and a designation of the rooms to be used for nonambulatory children if any.
 - (5) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens recreation areas and other space used by children.
 - (A) The sketch shall include the dimensions of all areas which will be used by the children.
 - (6) Transportation arrangements for children who do not have independent arrangements.
 - (7) A statement whether or not the licensee will handle the children's money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall be pursuant to Sections 87025 and 87026.
 - (8) Consultant and community resources to be utilized as part of the home's program.
 - (9) A statement of the facility policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.
 - (A) This policy shall be consistent with the child's services plan.

87022 PLAN OF OPERATION (Continued)**87022**

- (B) To the extent that the visiting policy is consistent with the child's services plan, this policy shall also be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility as provided in Section 1512 of the Health and Safety Code.
- (c) Any changes in the plan of operation which affect the services to children shall be subject to licensing agency approval and shall be reported as specified in Section 87061.
- (d) The home shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1512, 1520 and 1531, Health and Safety Code.

87023 DISASTER AND MASS CASUALTY PLAN**87023**

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the licensing agency and shall include:
 - (1) Contingency plans for action during fires, floods, and earthquakes, including but not limited to the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for children.
 - (D) Arrangements for supervision of children during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.

87023 DISASTER AND MASS CASUALTY PLAN (Continued)**87023**

- (c) The licensee shall instruct all children, age and abilities permitting, and/or members of the household in their duties and responsibilities under the plan.
- (d) The licensee shall conduct disaster drills at least every six months.
 - (1) Completion of such drill shall not require the licensee to transport children away from the home or to contact local agencies or other disaster authorities.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

87024 WAIVERS AND EXCEPTIONS**87024**

- (a) Unless prior written licensing agency approval is received as specified in (b) below, a licensee shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, qualifications, or the conduct of experimental or demonstration projects under the following circumstances:
 - (1) Such alternatives shall in no instance be detrimental to the health and safety of any child.
 - (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

87024 WAIVERS AND EXCEPTIONS (Continued)**87024**

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- (3) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

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- (4) The licensing agency shall provide written approval or denial of the request.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1509, 1525.5 and 1531, Health and Safety Code.

87025 BONDING**87025**

- (a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of children and the maximum amount of cash resources to be safeguarded for all children or each child in any month.
- (b) All licensees who are entrusted to care for and control children's cash resources shall file or have on file with the department or licensing agency, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
\$750 OR LESS	\$1,000
\$751 to \$1,500	\$2,000
\$1,501 to \$2,500	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the licensing agency prior to the licensee safeguarding amounts of children's cash resources in excess of the current bond.

87025 BONDING (Continued)**87025**

- (e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection to children's cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the children's cash resources.
- (f) The provisions of this section shall only apply if the licensee safeguards more than \$50 per child and more than \$500 for all children in any month as specified in Health and Safety Code Section 1560.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1525.5, 1560 and 1561, Health and Safety Code.

87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES**87026**

- (a) A licensee shall not be required to accept for admission or continue to care for any child whose initial or subsequent needs and services plans would require the licensee to handle the child's cash resources.
- (b) If such a child is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the home, who has been designated by the child's authorized representative, shall be handled by the licensee and shall be safeguarded in accordance with the requirements specified in (c) through (m) below.
- (c) A licensee shall be permitted to accept appointment and serve as guardian for the person, or estate, or person and estate, of a child.
 - (1) Such appointment shall be reported to the licensing agency as specified in Section 87061(h)(1).
- (d) Cash resources personal property, and valuables of children shall be maintained free from any liability the licensee incurs.
- (e) Cash resources and personal property and valuables of children shall be separate and intact, and shall not be commingled with the licensee's funds or petty cash.
- (f) The licensee shall not make expenditures from children's cash resources for any basic services specified in these regulations, or for any basic services identified in the child's admission agreement.

87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, 87026
AND VALUABLES (Continued)

- (g) The licensee shall not commingle cash resources, personal property and valuables of children with those of another community care facility of a different license number regardless of joint ownership.
- (h) The licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to the following:
 - (1) Records of each child's cash resources maintained as a drawing account which shall include a current ledger accounting, with columns for income, disbursements and balance and supporting receipts for purchases.
 - (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of any child, the licensee shall deposit any of the child's cash resources entrusted to the licensee and not kept in the home, in any type of bank, savings and loan, or credit union account meeting the following requirements:
 - (1) The account shall be maintained separately from the personal or business accounts of the licensee.
 - (2) The account title shall clearly note that the account contains the child's cash resources.
 - (3) The licensee shall provide the child access to the cash resources upon demand by the child's authorized representative.
 - (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept in the home shall be kept in a locked and secure location.

**87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES (Continued)****87026**

- (k) When a child leaves placement in the home, the licensee shall surrender all of the child's cash resources, personal property, and valuables which have been entrusted to the licensee to the child's authorized representative.
- (1) The licensee shall obtain and retain a receipt signed by the authorized representative.
- (l) Upon the death of a child the licensee shall immediately safeguard all cash resources, personal property and valuables of that child in accordance with the following requirements:
- (1) All cash resources shall be placed in an account as specified in (i) above.
- (2) The executor or the administrator of the estate be notified by the licensee of the child's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed itemized receipt.
- (3) If no executor or administrator has been appointed, the authorized representative shall be notified by the licensee of the child's death, and the cash resources, personal property, and valuables shall be surrendered to the authorized representative in exchange for a signed itemized receipt.
- (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the child's death to the public administrator of the county as provided by Section 1145 of the California Probate Code.
- (m) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value \$100, provided by or on behalf of a child to the licensee.
- (1) The record shall be attached to the accounts specified in (h) above if the child's cash resources, personal property or valuables have been entrusted to the licensee.
- (2) Monetary gifts or valuables given by the friends or relatives of a deceased child shall not be subject to the requirements specified in (m) and (m)(1) above.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1525.5, 1531 and 1560, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

87027 APPLICATION REVIEW**87027**

HANDBOOK BEGINS HERE

- (a) The licensing agency shall complete the following as part of the application review process:
- (1) A site visit to the proposed foster family home and a determination of the qualifications of the applicant.
 - (2) A determination that the applicant has secured a fire clearance from the State Fire Marshal, if required.
 - (3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this chapter as specified in Health and Safety Code Section 1520.
 - (4) A determination that the home complies with the provisions of the Community Care Facilities Act and the regulations in this chapter.

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- (b) If the applicant has not submitted all materials specified in Section 87018 within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant that the application is incomplete.
- (1) If the applicant does not complete the application within 30 days after such notice, the application shall be deemed withdrawn, provided that the licensing agency has not denied or taken action to deny the application.
- (c) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.

87027 APPLICATION REVIEW (Continued) 87027**HANDBOOK BEGINS HERE**

- (1) Health and Safety Code Section 1520.3 provides:
 - (a) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was previously issued a license under this chapter or under Chapter 1 (commencing with Section 1200), or Chapter 2 (commencing with Section 1250), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.
 - (b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall cease further review of the application under either of the following circumstances as follows:
 - (1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
 - (2) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1526 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

HANDBOOK CONTINUES

87027 APPLICATION REVIEW (Continued) 87027

HANDBOOK CONTINUES

The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

HANDBOOK ENDS HERE

- (2) "Application was denied within the last year" as specified in Health and Safety Code Section 1520.3(b) shall include initial or renewal applications.
- (3) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
 - (A) A fire clearance previously denied, but now approved;
 - (B) A licensee who did not meet the minimum qualifications, but now fulfills the qualifications;
or
 - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.
- (4) This review shall not constitute approval of the application.
- (5) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

NOTE: Authority cited: Sections 1523, 1524, 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1520.3, 1523, and 1524, Health and Safety Code.

87028 CAPACITY DETERMINATION**87028**

- (a) A license shall be issued for a specific capacity.
- (b) The number of children for whom the foster family home is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
 - (1) The licensee's ability to comply with applicable law and regulations.
 - (2) Any other household members including but not limited to children under guardianship or conservatorship, who reside at the facility and their individual needs.
 - (3) Facilities which accept a minor parent and his/her child(ren) shall have such child(ren) included in the facility's licensed capacity.
 - (4) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
- (c) The licensing agency shall be authorized to issue a license for fewer children than is requested when the licensing agency determines that the licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer children than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's right to appeal the decision as specified in Section 87040.
- (e) The licensing agency shall be authorized to restrict care to specific children.
 - (1) If care is limited to specific children, the licensing agency shall specify the names of the children in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 87040.

87028 CAPACITY DETERMINATION (Continued)**87028**

- (f) The licensing agency shall have the authority to decrease the existing licensed capacity, with the licensee's agreement, when there is a change in any of the factors specified in (c) above.
- (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 87042.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 11465, Welfare and Institutions Code and Sections 1501 and 1531, Health and Safety Code.

87029 WITHDRAWAL OF APPLICATION 87029

- (a) An applicant shall have the right to withdraw an application for an initial or renewal license.
- (1) Such withdrawal shall be in writing.

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- (b) Health and Safety Code Section 1553 provides that the licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520 and 1553, Health and Safety Code.

87030 PROVISIONAL LICENSE**87030**

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 87031 or 87040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The home has no serious deficiencies as defined in Section 87001s.(1).
- (2) There is a change in home location and children currently in care are in need of services from the same licensee at the new location.
- (b) The capacity of a provisional license shall be limited to the number of children currently in care or the capacity established for the specific home whichever is less.
- (c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

87030 PROVISIONAL LICENSE (Continued)**87030**

- (e) If, during the provisional licensing period, the licensing agency discovers any deficiencies the department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1525.5, Health and Safety Code.

87031 ISSUANCE OF LICENSE**87031**

- (a) The licensing agency shall issue a license to the applicant after a completed application has been completed, and upon determination that all licensing requirements have been met.
- (b) The licensing agency shall notify the applicant in writing of such issuance.
- (c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that the licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (1) Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1509, 1520, 1520.5, 1524, 1525, 1526 and 1531.5, Health and Safety Code.

87032 TERM OF AN INITIAL OR RENEWAL LICENSE**87032**

- (a) Except as provided in Section 87030 an initial license shall expire one year from the date of issue as specified in Health and Safety Code Section 1524.
- (b) The licensing agency shall have the authority to issue a renewal license for one year if it determines that the licensee or the home, at the time of the renewal visit, has no serious deficiencies.
- (c) A licensee shall qualify for a two-year license renewal, provided the licensee has completed a course, training, seminar or conference each year, during the previous licensed period, in areas related to the provision of foster family home care, and, at the time of the renewal visit is in compliance with applicable law and regulation.
 - (1) Documentation as specified in 87017(c)(2)(A), (B), and/or (C) shall be submitted with the renewal application.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1524 and 1525, Health and Safety Code.

87033 APPLICATION FOR RENEWAL OF LICENSE**87033**

- (a) An application for the renewal of a license shall be filed on a form provided by the licensing agency not less than 30 days prior to the license expiration date or at the time of initial application.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1524 provides that failure to make application for renewal within the prescribed time limit shall result in expiration of the license and the home shall be unlicensed.

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- (b) The renewal license shall be granted if the licensee filed a renewal application within the time specified in (a) above, unless the application has been denied, as specified in Section 87041.

87033 APPLICATION FOR RENEWAL OF LICENSE (Continued)**87033**

- (c) Pending the issuance of a renewal license pursuant to (b) above, the current license shall remain in effect.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524 and 1525, Health and Safety Code.

87034 SUBMISSION OF NEW APPLICATION**87034**

- (a) A licensee shall file a new application as required by Section 87018 whenever there is a change in conditions or limitations described on the current license.
- (1) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of a fire clearance, if needed.

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- (2) Changes commonly overlooked but which require that a new application be filed include:
- (A) Any change in the location of the home.
- (B) Any change in facility category.
- (C) A permanent change in any child from ambulatory to nonambulatory status.

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- (b) An applicant shall file a new application whenever an applicant fails to complete an application within the time required by Section 87027(b) if the applicant chooses to continue the application process.
- (c) A licensee shall file a new application whenever a licensee fails to file a renewal application within the time limit required by Section 87033(a).

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

**87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME
LICENSE****87035**

- (a) Conditions for forfeiture of a foster family home license may be found in Section 1524 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1524 reads in part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority of ownership.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (e) The licensee dies.
- (f) The licensee abandons the facility.

HANDBOOK ENDS HERE

- (1) "Licensee abandons the facility" shall mean either of the following:
- (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or

**87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME
LICENSE (Continued)****87035**

- (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
1. The licensing agency requests information of the licensee's whereabouts from an adult at the facility if an adult can be contacted; and
 2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
 3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
- (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.
 - (2) The relative files with the Department within five calendar days of the licensee's death an Application for License (LIC 283 12/91) and evidence of the licensee's death as defined in Section 87001(e)(3).
 - (A) Notwithstanding the instructions on the Application for License (LIC 283 12/91), the Department shall permit the relative to submit only the information on the front side of that form.
 - (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

87035	CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE (Continued)	87035
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- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87030.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1523, 1524(e), 1530, and 1530.5, Health and Safety Code. Reference: Sections 1523, 1524, and 1524(e), Health and Safety Code.

87036	APPLICATION/RENEWAL PROCESSING FEE	87036
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- (a) No application/renewal processing fee shall be charged to foster family homes.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1523 and 1524, Health and Safety Code.